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Federal Government and State Attorneys General Reach \$25 Billion Agreement with Five Largest Mortgage Servicers to Address Mortgage Loan Servicing and Foreclosure Abuses

WASHINGTON – U.S. Attorney General Eric Holder, Department of Housing and Urban Development (HUD) Secretary Shaun Donovan, Iowa Attorney General Tom Miller and Colorado Attorney General John W. Suthers announced today that the federal government and 49 state attorneys general have reached a landmark \$25 billion agreement with the nation's five largest mortgage servicers to address mortgage loan servicing and foreclosure abuses. The agreement provides substantial financial relief to homeowners and establishes significant new homeowner protections for the future.

The unprecedented joint agreement is the largest federal-state civil settlement ever obtained and is the result of extensive investigations by federal agencies, including the Department of Justice, HUD and the HUD Office of the Inspector General (HUD-OIG), and state attorneys general and state banking regulators across the country. The joint federal-state group entered into the agreement with the nation's five largest mortgage servicers: Bank of America Corporation, JPMorgan Chase & Co., Wells Fargo & Company, Citigroup Inc. and Ally Financial Inc. (formerly GMAC).

"This agreement – the largest joint federal-state settlement ever obtained – is the result of unprecedented coordination among enforcement agencies throughout the government," said Attorney General Holder. "It holds mortgage servicers accountable for abusive practices and requires them to commit more than \$20 billion towards financial relief for consumers. As a result, struggling homeowners throughout the country will benefit from reduced principals and refinancing of their loans. The agreement also requires substantial changes in how servicers do business, which will help to ensure the abuses of the past are not repeated."

"This historic settlement will provide immediate relief to homeowners – forcing banks to reduce the principal balance on many loans, refinance loans for underwater borrowers, and pay billions of dollars to states and consumers," said HUD Secretary Donovan. "Banks must follow the laws. Any bank that hasn't done so should be held accountable and should take prompt action to correct its mistakes. And it will not end with this settlement. One of the most important ways this settlement helps homeowners is that it forces the banks to clean up their acts and fix the problems uncovered during our investigations. And it does that by committing them to major reforms in how they service mortgage loans. These new customer service standards are in keeping with the Homeowners Bill of Rights recently announced by President Obama – a single, straightforward set of commonsense rules that families can count on."

This monitored agreement holds the banks accountable, it provides badly needed relief to homeowners, and it transforms the mortgage servicing industry so now homeowners will be protected and treated fairly," said Iowa Attorney General Miller.

"This settlement has broad bipartisan support from the states because the attorneys general realize that the partnership with the federal agencies made it possible to achieve favorable terms and conditions that would have been difficult for the states or the federal government to achieve on their own," said Colorado Attorney General Suthers.

The joint federal-state agreement requires servicers to implement comprehensive new mortgage loan servicing standards and to commit \$25 billion to resolve violations of state and federal law. These violations include servicers' use of "robo-signed" affidavits in foreclosure proceedings; deceptive practices in the offering of loan modifications; failures to offer non-foreclosure alternatives before foreclosing on borrowers with federally insured mortgages; and filing improper documentation in federal bankruptcy court.

Under the terms of the agreement, the servicers are required to collectively dedicate \$20 billion toward various forms of financial relief to borrowers. At least \$10 billion will go toward reducing the principal on loans for borrowers who, as of the date of the settlement, are either delinquent or at imminent risk of default and owe more on their mortgages than their homes are worth. At least \$3 billion will go toward refinancing loans for borrowers who are current on their mortgages but who owe more on their mortgage than their homes are worth. Borrowers who meet basic criteria will be eligible for the refinancing, which will reduce interest rates for borrowers who are currently paying much higher rates or whose adjustable rate mortgages are due to soon rise to much higher rates. Up to \$7 billion will go towards other forms of relief, including forbearance of principal for unemployed borrowers, anti-blight programs, short sales and transitional assistance, benefits for service members who are forced to sell their home at a loss as a result of a Permanent Change in Station order, and other programs. Because servicers will receive only partial credit for every dollar spent on some of the required activities, the settlement will provide direct benefits to borrowers in excess of \$20 billion.

Mortgage servicers are required to fulfill these obligations within three years. To encourage servicers to provide relief quickly, there are incentives for relief provided within the first 12 months. Servicers must reach 75 percent of their targets within the first two years. Servicers that miss settlement targets and deadlines will be required to pay substantial additional cash amounts.

In addition to the \$20 billion in financial relief for borrowers, the agreement requires the servicers to pay \$5 billion in cash to the federal and state governments. \$1.5 billion of this payment will be used to establish a Borrower Payment Fund to provide cash payments to borrowers whose homes were sold or taken in foreclosure between Jan. 1, 2008 and Dec. 31, 2011, and who meet other criteria. This program is separate from the restitution program currently being administered by federal banking regulators to compensate those who suffered direct financial harm as a result of wrongful servicer conduct. Borrowers will not release any claims in exchange for a payment. The remaining \$3.5 billion of the \$5 billion payment will go to state and federal governments to be used to repay public funds lost as a result of servicer misconduct and to fund housing counselors, legal aid and other similar public programs determined by the state attorneys general.

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The \$5 billion includes a \$1 billion resolution of a separate investigation into fraudulent and wrongful conduct by Bank of America and various Countrywide entities related to the origination and underwriting of Federal Housing Administration (FHA)-insured mortgage loans, and systematic inflation of appraisal values concerning these loans, from Jan. 1, 2003 through April 30, 2009. Payment of \$500 million of this \$1 billion will be deferred to partially fund a loan modification program for Countrywide borrowers throughout the nation who are underwater on their mortgages. This investigation was conducted by the U.S. Attorney's Office for the Eastern District of New York, with the Civil Division's Commercial Litigation Branch of the Department of Justice, HUD and HUD-OIG. The settlement also resolves an investigation by the Eastern District of New York, the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) and the Federal Housing Finance Agency-Office of the Inspector General (FHFA-OIG) into allegations that Bank of America defrauded the Home Affordable Modification Program.

The joint federal-state agreement requires the mortgage servicers to implement unprecedented changes in how they service mortgage loans, handle foreclosures, and ensure the accuracy of information provided in federal bankruptcy court. The agreement requires new servicing standards which will prevent foreclosure abuses of the past, such as robo-signing, improper documentation and lost paperwork, and create dozens of new consumer protections. The new standards provide for strict oversight of foreclosure processing, including third-party vendors, and new requirements to undertake pre-filing reviews of certain documents filed in bankruptcy court.

The new servicing standards make foreclosure a last resort by requiring servicers to evaluate homeowners for other loss mitigation options first. In addition, banks will be restricted from foreclosing while the homeowner is being considered for a loan modification. The new standards also include procedures and timelines for reviewing loan modification applications and give homeowners the right to appeal denials. Servicers will also be required to create a single point of contact for borrowers seeking information about their loans and maintain adequate staff to handle calls.

The agreement will also provide enhanced protections for service members that go beyond those required by the Servicemembers Civil Relief Act (SCRA). In addition, the four servicers that had not previously resolved certain portions of potential SCRA liability have agreed to conduct a full review, overseen by the Justice Department's Civil Rights Division, to determine whether any servicemembers were foreclosed on in violation of SCRA since Jan. 1, 2006. The servicers have also agreed to conduct a thorough review, overseen by the Civil Rights Division, to determine whether any servicemember, from Jan. 1, 2008, to the present, was charged interest in excess of 6% on their mortgage, after a valid request to lower the interest rate, in violation of the SCRA. Servicers will be required to make payments to any servicemember who was a victim of a wrongful foreclosure or who was wrongfully charged a higher interest rate. This compensation for servicemembers is in addition to the \$25 billion settlement amount.

The agreement will be filed as a consent judgment in the U.S. District Court for the District of Columbia. Compliance with the agreement will be overseen by an independent monitor, Joseph A. Smith Jr. Smith has served as the North Carolina Commissioner of Banks since 2002. Smith is also the former Chairman of the Conference of State Banks Supervisors (CSBS). The monitor will oversee implementation of the servicing standards required by the agreement; impose penalties of up to \$1 million per violation (or up to \$5 million for certain repeat violations); and publish regular public reports that identify any quarter in which a servicer fell

The agreement resolves certain violations of civil law based on mortgage loan servicing activities. The agreement does not prevent state and federal authorities from pursuing criminal enforcement actions related to this or other conduct by the servicers. The agreement does not prevent the government from punishing wrongful securitization conduct that will be the focus of the new Residential Mortgage-Backed Securities Working Group. The United States also retains its full authority to recover losses and penalties caused to the federal government when a bank failed to satisfy underwriting standards on a government-insured or government-guaranteed loan. The agreement does not prevent any action by individual borrowers who wish to bring their own lawsuits. State attorneys general also preserved, among other things, all claims against the Mortgage Electronic Registration Systems (MERS), and all claims brought by borrowers.

Investigations were conducted by the U.S. Trustee Program of the Department of Justice, HUD-OIG, HUD's FHA, state attorneys general offices and state banking regulators from throughout the country, the U.S. Attorney's Office for the Eastern District of New York, the U.S. Attorney's Office for the District of Colorado, the Justice Department's Civil Division, the U.S. Attorney's Office for the Western District of North Carolina, the U.S. Attorney's Office for the District of South Carolina, the U.S. Attorney's Office for the Southern District of New York, SIGTARP and FHFA-OIG. The Department of Treasury, the Federal Trade Commission, the Consumer Financial Protection Bureau, the Justice Department's Civil Rights Division, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Department of Veterans Affairs and the U.S. Department of Agriculture made critical contributions.

For more information about the mortgage servicing settlement, go to www.NationalMortgageSettlement.com. To find your state attorney general's website, go to www.NAAG.org and click on "The Attorneys General."

The joint federal-state agreement is part of enforcement efforts by President Barack Obama's Financial Fraud Enforcement Task Force. President Obama established the interagency Financial Fraud Enforcement Task Force to wage an aggressive, coordinated and proactive effort to investigate and prosecute financial crimes. The task force includes representatives from a broad range of federal agencies, regulatory authorities, inspectors general and state and local law enforcement who, working together, bring to bear a powerful array of criminal and civil enforcement resources. The task force is working to improve efforts across the federal executive branch, and with state and local partners, to investigate and prosecute significant financial crimes, ensure just and effective punishment for those who perpetrate financial crimes, combat discrimination in the lending and financial markets, and recover proceeds for victims of financial crimes. For more information about the task force, visit: www.stopfraud.gov.

12-186\$25 Billion Agreement Provides Homeowner Relief & New Protections, Office of the Attorney General
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